

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CHRIMAR SYSTEMS, INC., et al., §
§
v. § § Civil Action No. 6:15-cv-163 -JDL
ALCATEL-LUCENT USA, INC., et al. §
(LEAD CASE) §
§

ORDER

Before the Court is Defendants' letter brief request to file a motion to strike any theories or reliance by Plaintiffs' experts on the Maintain Power Signature ("MPS") or that the patents-in-suit cover the automation of or application of operational power aspects of the IEEE 802.3af and IEEE 802.3at standards. (Doc. No. 152-1.) Plaintiffs Chrimar Systems, Inc. and Chrimar Holding Company, LLC ("Chrimar") have filed a letter brief in response (Doc. No. 165-1), and Defendants have filed a reply (Doc. No. 185-1). Upon consideration, Defendants' letter brief request (Doc. No. 152-1) is **DENIED**, as set forth herein.

As to the issue regarding reliance on the MPS, Plaintiffs agree their technical expert is not relying on the MPS as a theory of infringement. (Doc. No. 165-1.) Defendants' reply makes clear that Defendants' concern lies with the Plaintiffs' damages expert allegedly relying on MPS to support a greater damages amount. (Doc. No. 185-1, at 1.) The Court finds that this is not an issue of disclosure, such that it need be stricken for improper or insufficient notice. However, to the extent Plaintiffs' damages expert is relying on a theory not supported by the technical expert

in addressing infringement, Defendants may include a challenge to such reliance in their *Daubert* motion, for which they were already granted leave by the Court.¹ (Doc. No. 178.)

As to the automation of or application of operational power aspects of the IEEE 802.3af and IEEE 802.3at standards, Defendants do not sufficiently address or clearly explain why the disclosures in Plaintiffs' infringement contentions which discuss the application of power of the accused products in view of the IEEE standards are insufficient. (Doc. No. 165-1, at 3.)

For these reasons, Defendants' letter brief request (Doc. No. 152-1) is **DENIED**, as set forth herein.

So ORDERED and SIGNED this 13th day of June, 2016.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE

¹ The inclusion of such argument does not constitute a basis to exceed the page limits for that briefing set forth in Local Rule CV 7.